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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,753	07/25/2003	Colin Knight	gbc72203	1721

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EXAMINER

HENDERSON, MARK T

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,753

Applicant(s)

KNIGHT, COLIN

Examiner

Mark T. Henderson

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-37 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 20-37 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED OFFICE ACTION

Faxing of Responses to Office Actions

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing or responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers, which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

1. Claim 20 has been amended for further examination. Claims 1-19 have been canceled. Claims 21-37 have been added.

Claim Objections

2. Claims 22-29 are finally objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 22-29 depend from canceled claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20-37 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 21 recites the limitation "a web" in line 3. There is insufficient antecedent basis for this limitation in the claim. A "web" is not disclosed in the specifications or drawings.

4. Claim 30 recites the limitation "a web" in line 5. There is insufficient antecedent basis for this limitation in the claim. A "web" is not disclosed in the specifications or drawings.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 21-23, 26, 28, and 29 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Baumann (6,270,280).

Baumann discloses in Fig. 1, 4-6 and in Attachment I, a spine binder comprising: a spine consisting of a longitudinally extending strip (5), a web (see Fig. 5) dividing the strip into longitudinal sections; a series of spaced apart hinge members (on left and right of spine strip 5, as seen in Fig. 1), being transverse to the spine strip (5) defining a hinge consisting of extending longitudinally extending braces (4 and 5, as seen in Fig. 5 and 6); a first hinge brace (3) and a second hinge brace (4) connected by the spine (5), such that when the hinge is open (see Fig. 1) the braces are separated, and when the hinge is closed (see Fig. 4) the hinges are brought together; complementary male ring element (1) and female ring element (11); wherein each ring element has a proximal end (6) and a distal end (12 and 22); a male fastener (7) and a complementary female fastener (14); wherein each ring is semicircle; wherein the male fastener comprises a neck (8) that attaches a head (9) that is thicker than the neck to the distal end (see Fig. 1), and the female fastener comprises a fastener recess having an outer channel (13) and an inner head cavity (14), wherein the spine binder is unitary injection molded polymer (Col. 3, lines 14-25); wherein the ring elements are all alike with the male fasteners are on the first hinge brace, and the female fasteners are on the second hinge brace (see Fig. 6); and wherein the space (width of spine) on the spine between the hinge members is less than the circumference of the ring (see Fig. 4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 25 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann.

Baumann discloses a spine binder comprising all the elements as claimed in Claim 21.

However, Baumann does not disclose: wherein the ring elements are wider than thick.

It would have been obvious to construct the ring elements any desirable dimension for inserting in a particular sized holed sheet, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. Therefore, it would have been obvious to form the ring elements in any desirable dimension, since applicant has not stated the criticality of having a particular dimension and invention would function equally as well with any hole-fitting dimension.

Allowable Subject Matter

7. Claims 24 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claim 30 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
9. Claims 20 and 31-37 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed on June 8, 2005 have been fully considered but they are not persuasive.

In regards to applicant's arguments that the prior art does not disclose ring elements that "are adapted to be pressed together into removably secured engagement when pressure is applied to the web of the spine" the examiner submits that, a recitation of the intended use of the claimed

invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Therefore, the ring elements of the Baumann reference are adaptable to be pressed together into removably secured engagement.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 3722

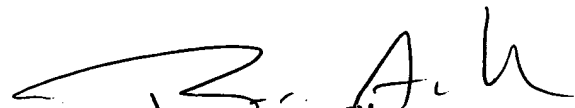
Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571) 272-4477, and informal fax number is (571) 273-4477. The examiner can be reached on Monday-Friday from 9:00AM to 3:45PM. If attempts to reach the examiner by telephone are unsuccessful, the Examiner Supervisor, Boyer Ashley, can be reached at (571) 272-4502. The formal fax number for TC 3700 is (571) 273-8300.



MTH

August 21, 2005



BOYER D. ASHLEY
PRIMARY EXAMINER